

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CENTRIPETAL NETWORKS, INC.,

Plaintiff,

v.

CISCO SYSTEMS, INC.

Defendant.

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Case No. 2:18cv00094-EWH-LRL

CISCO SYSTEMS, INC.’S NOTICE OF SUPPLEMENTAL AUTHORITY

Defendant Cisco Systems, Inc. (“Cisco”), by counsel, submits this Notice of Supplemental Authority to bring to the Court’s attention a recent opinion issued by the U.S. Court of Appeals for the Federal Circuit, *Finjan, Inc. v. SonicWall, Inc.*, No. 2022-1048 (Fed. Cir. Oct. 13, 2023) (“*SonicWall*”), which is attached as Ex. A.

The attached decision directly relates to Cisco’s arguments regarding the apportionment opinions offered by Centripetal’s expert, Dr. Aaron Striegel. *See* Cisco’s Renewed (Corrected) Proposed Findings of Fact and Conclusions of Law (ECF No. 737-1) at ¶¶ 492-502; *see id.* at ¶¶ 493, 501 (citing the now-affirmed district court opinion in *SonicWall*). *SonicWall* addresses the admissibility of Dr. Striegel’s opinions using the same methodology he offers in this case.

In *SonicWall*, the Federal Circuit affirmed the district court’s decision to exclude Dr. Striegel’s apportionment analysis because the documents Dr. Striegel relied on “to identify purported ‘top-level functions’ divide those functions into additional sub-features,” but Dr. Striegel “admitted that he presented no analysis to assess the value of the sub-features.” *See SonicWall*, No. 2022-1048 at 22. The Federal Circuit held that the district court did not abuse its discretion by excluding Dr. Striegel because he failed to carefully tie his analysis to allegedly infringing features and to exclude value attributable to unpatented features. *Id.* The same issues

are present in this case. *See* Cisco's Renewed (Corrected) Proposed Findings of Fact and Conclusions of Law, ECF No. 737-1, at ¶¶ 494-495; Pl. Centripetal Networks, LLC's Proposed Findings of Fact and Conclusions of Law, ECF No. 725, at ¶¶ 501-588.

The Federal Circuit also rejected Finjan's attempt to rely on *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1289 (Fed. Cir. 2018), a case upon which Centripetal also relies. *Compare* *SonicWall*, No. 22-1048 at 22-23, with Pl. Centripetal Networks, LLC's Proposed Findings of Fact and Conclusions of Law, ECF No. 725, at ¶ 155, and Pl. Centripetal Networks, Inc.'s Mem. In Opp. To Def.'s Mot. To Exclude the Apportionment-Related Opinions of Dr. Aaron Striegel and the Related Royalty Base Opinions of Mr. Lance Gunderson, ECF No. 339, at pp. 2, 12-15.

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